

## **REMARKS / ARGUMENTS**

### **I. General Remarks and Disposition of the Claims**

Please consider the application in view of the foregoing amendments and following remarks. Applicant thanks the Examiner for his careful consideration of this application.

At the time of the Final Office Action, claims 1-68 were pending. Applicant respectfully requests continued examination and reconsideration of these claims in light of the amendments and remarks contained herein. In the following remarks, the bolded claim numbers correspond to the six pending independent claims.

### **II. Remarks Regarding Rejections Under 35 U.S.C. § 103**

Claims 1, 4, 6-9, 11, 12, **13**, 14-16, 20, 21, 23, **25**, 28, 30-33, 35, **36**, 37-39, 43, 44, 46, **47**, 50, 52-55, 57, **58**, 59-61, 65, 66, and 68 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,360,271 B1 issued to Schuster et al. (hereinafter "*Schuster*") in view of an article titled "Internet Time Synchronization: the Network Time Protocol" that list David L. Mills as author (hereinafter "*Mills*"). With respect to these rejections, the Final Office Action states:

Regarding claims 1 and **47**, Schuster shows a method of and a system for adjusting time recordation, comprising:

sending a first message to a first processor that maintains a first time (Fig. 2, col. 9 lines 40 - 44);

....

Regarding claim **25**, Schuster in view of Mills further show a computer program stored on a tangible storage medium, for adjusting time recordation, the program including executable instructions that cause one or more computers to:

send a first message to a first processor that maintains a first time (Schuster, Fig. 2, col. 9 lines 40 - 44);

....

Regarding claims 13, **36**, **58**, Schuster in view of Mills further show a method of, a computer program, stored on a tangible storage medium for, and a system for adjusting time recordation, comprising:

sending a first message to a first processor that maintains a first time (Schuster, Fig. 2, col. 9 lines 40 - 44);

(Final Office Action at pages 2-4). Applicant respectfully disagrees.

Applicant reiterates that a *prima facie* case of obviousness has not been established and cannot be established with respect to *Schuster* in view of *Mills*, at least because neither reference discloses or suggests recording the time at which a first signal is received. There is no *prima facie* case of obviousness where the asserted combination lacks at least one element. M.P.E.P. § 2143; *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1443 (Fed. Cir. 1991).

*Schuster* indicates in Figure 2, identified by the Examiner, that synchronizing the timing of the transmitting and receiving ends is accomplished using global positioning system receivers. Figure 2 teaches synchronization applied by an external source. Figure 2 does not disclose or suggest any processor that maintains a time and records, according to that time, when a message is received. Figure 2 does not teach or suggest that an internal time is recorded for the receipt of a message from the GPS receiver.

In column 9, identified by the Examiner, *Schuster* discusses two possibilities for applying a sender-timestamp using a first time signal. It is important to note that *Schuster* neither discusses nor suggests a receiver-timestamp with respect to synchronization. In view of *Schuster's* teaching of GPS synchronization, only the receiving processor records a receiver time, which is compared to the externally-imposed synchronization. *Schuster*, for example at claim 19. The first time signal can be "provided by a clock coupled with or included in the transmitter" or "communicated to the transmitter from some external clock source." *Schuster*, at col. 9, lines 39-44. For the coupled clock and external clock source options, the transmitter does receive a message, but it does not record a time it maintains at which it receives that message. It makes no sense for the transmitter to do so, because that received message establishes the time for the transmitter. For the clock included in the transmitter, there is no message received at the transmitter, because the time signal is internal. The claims have been amended to clarify what was already implicit in the language of sending a message to the processor or receiving a message at the processor.

As a result, none of the options taught in *Schuster* satisfy the requirements described in the independent claims concerning having two processors which each maintain time and use that maintained time to record receipt times of messages. There is no reason for *Schuster* to teach such a process, because *Schuster* relies on an external synchronization source.

Consistent with the Examiner's rejection, *Mills* also does not disclose or suggest recording the times at which first and second signals are received.

The Final Office Action discusses the requirement that the time when a message is received is recorded at each of the two processors. (Final Office Action at page 13). Applicants acknowledge that *Schuster* works with received time values. As discussed above, however, *Schuster* compares the time when the message arrives at the receiver using the externally synchronized clock to determine transit time. That disclosure does not teach first and second processors, which each maintain a time and record that time when a message is received. In fact, transit time cannot be determined from two reception times. In *Schuster*, the reception time is only recorded at the receiver and is used to compare to external synchronization, not to synchronize as claimed. *Schuster* at col. 10 lines 54-59. To the extent the Examiner independently argues that times are inherently recorded in a computer system, there is no teaching in *Schuster* that such inherently recorded times, even if they exist, are used in setting processor times, as claimed. Applicants also acknowledge that *Mills* discusses timestamps used in NTP messages. Those timestamps, like the ones in *Schuster*, are made only by receivers. A single NTP message may contain multiple timestamps, see *Mills* at page 5, col. 2, but each is from a subsequent arrival. *Mills* does not teach having two processors that each record arrival times for different messages. Like *Schuster*, *Mills* would only suggest to a person of ordinary skill in the art that arrival time at a receiver be recorded. For these reasons, Applicants respectfully disagree that *Schuster* and *Mills*, alone or in combination, teach the two processor approach that is claimed.

The Examiner rejects the remaining claims based on *Schuster*, *Mills*, and one of *Topfl*, *Krause*, *Shaw*, or *Cognet*. Those claims are all dependent on one of the independent claims discussed above and the latter four references do not remedy the lack of teaching in the primary to references as two the requirements of the independent claims. As a result, those more complex combinations do not render obvious the subject matter of the dependent claims.

### **III. No Waiver**

All of Applicants' arguments and amendments are without prejudice or disclaimer. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's

additional statements. The example distinctions discussed by Applicants are sufficient to overcome the obviousness rejections.


**SUMMARY**

In light of the above amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

The Commissioner is hereby authorized to debit Baker Botts L.L.P.'s Deposit Account No. 02-0383, Order Number 063718.0330, in the amount of \$810.00 for the RCE fee under 37 C.F.R. § 1.17(e). Should the Commissioner deem that any additional fees are due, including any fees for extensions of time, Applicants respectfully request that the Commissioner accept this as a petition therefor, and direct that any additional fees be charged to Baker Botts L.L.P.'s Deposit Account No. 02-0383, Order Number 063718.0330.

Respectfully submitted,

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